

REMARKS

Claim Status

Claims 1-20 remain for consideration, and all claims are thought to be allowable over the cited art.

New claims 21-27 are added to claim the invention in alternative language.

Rejections Under 35 USC §112

The rejection of claim 8 under 35 USC §112, first paragraph, is respectfully traversed. Claim 8 includes the limitations that the keyword statement is identified from a selection made by a user. The Office Action alleges that "one skilled in the art would not know how to use the claimed invention." However, it is respectfully submitted that the specification in paragraph 22 teaches that the keyword can be predetermined within the optimizer or selected by a user on the fly. Those skilled in the art would certainly appreciate, even though not explicitly stated, that user interaction with an optimizer could be via a keyboard, mouse or any other user input device.

It is also respectfully submitted that the limitations of claim 8 further limit how the step of identifying a keyword statement is accomplished. Even though the concept of claim 8 could have been alternatively worded, for example, "wherein the identifying step includes...", it is respectfully submitted that the current expression of claim 8 indeed limits the identifying step in a manner consistent with the law and in a manner understandable to those skilled in the art. Therefore, the §112 rejection of claim 8 should be withdrawn.

Rejections Under 35 USC §103(a)

Claims 1-6, 8-17, 19, and 20 are not unpatentable under 35 USC §103(a) over US publication 2002/0087954 A1 to Wang et al. ("Wang") in view of US patent 5,835,771 to Veldhuizen ("Veldhuizen"). The rejection is respectfully traversed because

the Office Action fails to show that all the limitations are suggested by the references, fails to provide a proper motivation for modifying the teachings of Wang with teachings of Veldhuizen, and fails to show that the combination could be made with a reasonable likelihood of success.

The Office Action fails to show that the combination teaches all the limitations of independent claims 1, 10, and 16. For example, these claims include limitations that relate to replacing a repeating pattern of statements found in program code with a program loop equivalent. The Office Action acknowledges that Wang does not teach these limitations, but alleges that Veldhuizen shows "using a loop for repeated code for the purpose of achieving greater efficiency of code." It is respectfully submitted that the cited teachings of Veldhuizen do not at all teach or suggest replacing a repeating code pattern with a loop. Instead, the cited teachings of Veldhuizen appear to teach the opposite.

Veldhuizen's text at col. 1, l. 41 - col. 2, l. 21 shows an example program loop and explains that the "loop may be rewritten to achieve greater efficiency." Veldhuizen goes on to explain that "one method of optimization is to generate inline code that replaces code in the original program code." That is, the example loop in Veldhuizen is replaced with inline statements.

Those skilled in the art will recognize that the claim limitations do the opposite. That is, a repeating pattern of statements is replaced with a program loop equivalent. Therefore, the Office Action fails to show that the combination suggests all the claim limitations.

The alleged motivation for modifying Wang with Veldhuizen is improper. The alleged motivation for making the combination is "to achieve greater efficiency by writing repeated program code in loops." However, as explained above, Veldhuizen teaches that greater efficiency may be accomplished by doing the opposite, replacing a loop with inline code. Therefore, the

alleged motivation is based on an erroneous interpretation of Veldhuizen's teachings and is improper.

The Office Action does not provide any evidence that Wang could be modified with the teachings of Veldhuizen with a reasonable likelihood of success. Specifically, Wang teaches a system that identifies code regions that are candidates for computation reuse (paragraph 16). Whereas Veldhuizen's system generates customized, inlined code (Abstract). Thus, Wang and Veldhuizen address different problem areas in different ways. Furthermore, the Office Action provides no evidence of specific elements of Wang that could be modified with specific teachings of Veldhuizen. For the reasons set forth above, the Office Action fails to establish a *prima facie* case of obviousness.

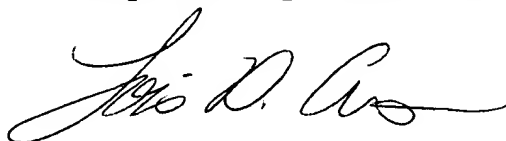
In regards to claims 2-6, 8-9, 11-15, 17, 19, and 20 these claims depend directly or indirectly from the independent claims above and are allowable for at least the reasons set forth above. Furthermore, various ones of the claims include further limitations that refine the limitations of the independent claims, which as explained above, the Office Action fails to show are suggested by the Wang-Veldhuizen combination. Therefore, *prima facie* obviousness is not established for claims 2-6, 8-9, 11-15, 17, 19, and 20.

Claims 7 and 18 are not obvious 35 under USC §103(a) over Wang further in view of Veldhuizen, and further in view of the "Microsoft Press Computer Dictionary" ("MPCD"). The rejection is respectfully traversed. Claim 7 depends from claim 1, and claim 18 depends from claim 16. Therefore, *prima facie* obviousness is not established for claims 7 and 18 for at least the reasons set forth above in regards to claims 1 and 16.

CONCLUSION

Reconsideration and a notice of allowance are respectfully requested in view of the Remarks presented above. If the Examiner has any questions or concerns, a telephone call to the undersigned is invited.

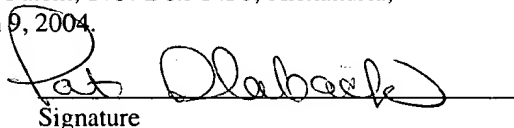
Respectfully submitted,



Lois D. Cartier
Agent for Applicant
Reg. No.: 40,941
(720) 652-3733

I hereby certify that this correspondence is being deposited with the United States Postal Service as first-class mail in an envelope addressed to: Commissioner for Patent, P.O. Box 1450, Alexandria, Virginia 22313-1450, on March 9, 2004.

Pat Slaback
Name


Signature